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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,735	06/14/2006	Christian Hummel	50151	6225
1609	7590	03/13/2009		
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P. 1300 19TH STREET, N.W. SUITE 600 WASHINGTON, DC 20036			EXAMINER	
			OU, JING RUI	
			ART UNIT	PAPER NUMBER
			3773	
			MAIL DATE	DELIVERY MODE
			03/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/565,735

**Examiner**

JING OU

**Applicant(s)**

HUMMEL ET AL.

**Art Unit**

3773

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED 04 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_.

/(Jackie) Tan-Uyen T. Ho/

Supervisory Patent Examiner, Art Unit 3773

Continuation of 11. does NOT place the application in condition for allowance because: The allegation on page 4 of the remarks that the second kink in the drawing of Fig. 1' is not spaced from the leg end and does not extend inwardly to form a point of mutual support for the legs is incorrect. The second kink in the drawing of Fig. 1' is obviously spaced from the leg end as shown and extend inwardly to form a point of mutual support for the legs to grip onto the tissue as shown in Fig. 21D. The allegation on page 4 of the remarks that the clip legs of Kobayashi cross each other is incorrect. As shown in Fig. 1', only the portion of the clip identified with a double arrow-line is considered as the clip legs. Therefore, the clip legs of Kobayashi do not cross each other. The allegation on page 5 of the remarks that Kobayashi does not disclose or suggest a beveled control surface on the distal end edge of the sleeve-shaped received part is incorrect. As shown in Figure 19, a beveled control surface on the distal end edge of the sleeve-shaped received part is clearly shown. The allegation on page 5 of the remarks that Kobayashi does not disclose or suggest that the crosspiece having the two adjacent holes, with pull cable extending through those two holes is incorrect. The crosspiece has a circular ring with a recess area. Both the circular ring and the recess area are considered holes. Furthermore, Kobayashi a breaking point between the circular ring and the recess area (Fig 7C), blocking element being in form of a collet (distal end tip, 2, Fig. 21A), multiple clips (14, Fig. 21A), an actuator being a tube (combination of manipulating wire 9, clip tightening ring 29, and 11 Figs. 21A-21D), an axially projecting shoulder (expansion pieces, 31b, Fig. 22D, the expansion pieces is capable of centering in the collet-like end part of distal tip end) located at the back end of the sleeve-like receiving part, and the distal ends of the legs are bent toward one another at a location spaced from said second kinks (see Fig. 1'). Furthermore, Kimura et al explicitly teaches a collet (coil pipe, 13, Fig. 7A) for attaching to the distal end of a catheter tube of a clip applier has longitudinal jaws (arm sections, 13d, Fig. 7A).